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June 5, 2023

VIA ECF

Honorable Paul A. Englemayer
United States District Judge
Southern District of New York
40 Foley Square
New York, NY 10007

Re: ***Kurtz et. al., v. Dr. Marie Lupica, et. al.,***
Index No. 20 Civ. 3401 (PAE)

Your Honor:

We represent plaintiffs Daniel Kurtz and Shveta Kakar (“Plaintiffs”) in the above referenced medical malpractice action. We write now to respectfully request a single day adjournment of the pretrial conference, from June 14, 2023, at 3:00 P.M., to June 15, 2023, at 9:30 A.M. Amanda L. Tate, Esq., counsel for defendants, consents to this request.

The reason for the request is that plaintiff’s primary trial counsel has an in-person deposition on June 14, 2023, with an out-of-state witness from California who has already purchased their airfare and booked non-refundable accommodations. Upon speaking with defense counsel, the parties called chambers to find out the Court’s availability for a brief adjournment, and the June 15, 2023 9:30 A.M., conference date proposed by Chambers works for all parties.¹ In the alternative, the parties would be available in the very late afternoon of June 14, 2023, around 5:00 P.M. to conduct the conference.²

Additionally, counsel is pleased to report that plaintiff’s expert, Dr. Tunik, is able to testify live at our trial, relieving any concerns about the need to record his testimony prior to trial. We thank the Court for providing an alternative mechanism to present Dr. Tunik’s testimony had he been unavailable to testify.

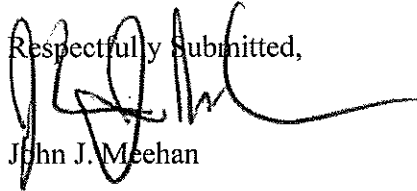
¹ Defense counsel has previously represented to this Court that primary trial counsel Daniel G. Federico, Esq., is scheduled for jury selection on June 13, 2023 in state court. Should this Court grant the instant request, Mr. Federico will request that the trial judge grant him permission to appear for the pretrial conference on June 15th at 9:30 a.m.

² We note, however, that this deposition will likely not conclude until late afternoon or early evening. It is therefore uncertain exactly what time Plaintiff’s counsel, travelling from midtown, would be able to arrive at Court.

Further, in advance of the final pre-trial conference, plaintiffs wish to alert the Court that, depending on the Court's motion *in limine* rulings, plaintiffs will be seeking to amend their exhibit list to include exhibits regarding their legal expenses. These would be a summary of bills paid to both law firms, and copies of the physical checks used to pay the legal bills. Defense counsel objects to their inclusion as exhibits on multiple grounds, including that they are subject of one of defendants' motions *in limine*.

Lastly, plaintiffs also wish to inform the Court that, pending the Court's motion *in limine* rulings, they will be seeking to amend their proposed jury charge to include a punitive damages charge. Defense counsel objects on multiple grounds, including that issue of punitive damages is the subject of one of defendants' motions *in limine*.


We thank the Court for its consideration.

Respectfully Submitted,

John J. Meehan

Cc: Counsel for defendants

The Court's strong preference would be to maintain the current schedule, to which counsel committed some time ago. The Court notes that multiple attorneys have appeared for plaintiffs and expects that one of them can ably cover the conference.

SO ORDERED.



PAUL A. ENGELMAYER
United States District Judge
June 5, 2023